Memo

To: WEDA BOARD

From: Peter Thillman, Jim Hough & Rob Kleman

CC:

Date: 10/07/03

Re: SEN. STEPP'S AND REP. LEHMAN'S COMPROMISE TIF REFORM PACKAGE

The original points 1 through 11 are the positions both Sen. Stepp and the TIF working group proposed. Any changes to our positions are in italics and bold face and include changes after discussion with Rep. Lehman. This composite proposal will be drafted for introduction for the fall floor period.

1.) WEDA membership has indicated that a major problem in the process of creating a TIF is the fact that Joint Review Board members often times do not have the necessary expertise to make informed decisions for the taxing entities. This proposal gives the local taxing jurisdiction's guidance when naming their appointees. The intent is to appoint Joint Review Board members who have a background in finance or strong knowledge in local government finance. Thereby increasing the sophistication of the board and protecting the taxpayer.

    No change.

2.) Allow newly platted residential development to be TIF eligible. Different communities have different development needs. When residential projects are TIF ineligible the purpose of smart growth is defeated. New commercial/industrial development is enhanced and strengthened by incorporating residential development in close proximity, thereby reducing sprawl and increasing tax base density.

    The compromise creates a new category of TIF called "Mixed Use" whereby 50% of the district must be suitable for Industrial, commercial or residential projects and no more that 35% of the project may be for newly platted residential. This removes the existing prohibition on residential development in TIF's and now makes residential projects TIF eligible expenses, but only limits the acreage in the "mixed-use" category.

3.) Eliminate the existing 5% / 7% valuation benchmark and increase that figure to 20%. Communities that operate successful TIF districts are punished if they are too successful. Current law does not allow them to create a new district until the TIF valuation is back to the 5% / 7%. This has the effect of impeding future economic growth, as communities must wait before they can take on another project. This results in the potential forfeiture of economic opportunities for both the local community and the state. Raising the standard to 20% retains the performance burden on the local community, but still allows for economic development opportunities.

    The compromise eliminates the 7% valuation test and raises the 5% test to 12%.

4.) Donor TIFs. One of the TIF law changes that had the greatest negative effect has been the elimination of the Donor TIF. Original intent of TIF law included redevelopment, affordable housing and more recently environmental remediation. Unfortunately developed property is at a significant

TIF disadvantage because the baseline is established at a developed level—making these TIFs more of a high risk. Many of these projects require significant investment in demolition and environmental remediation just to make them ready for redevelopment, and such redevelopment may not increase the baseline significantly, but does add significant non-tax base value to the community. These projects are the original intent of TIF, but as the law currently stands they are more and more difficult to complete. This proposal allows for a successful TIF to donate excess proceeds to a TIF district that was established for redevelopment, affordable housing, or environmental remediation purposes. Thereby fulfilling the original intent of the TIF law.

Compromise allows for donor TIF's, but donor TIF's may contribute only the excess current year revenue above and beyond current debt service requirements.

5.) The marginal profitability in redevelopment TIFs is again at the heart of the argument. One of the original intents of TIF law was to encourage urban renewal. But as explained in the previous point, redevelopment TIFs are relatively high risk. By extending the TIF life from 23 years to 30 years, it will make redevelopment TIFs more feasible. The costs in a greenfield and redevelopment area are basically the same, but redevelopment does not provide the same return to the tax base as a greenfield TIF. Greenfield development begins at general agriculture use assessment while redevelopment areas are already fully assessed, hence the uneven playing field.

Compromise allows redevelopment TIF's a life of 27 years, and all other TIF's have a life of 20 years with the option of a three year extension if requested in year 18 or year 25, for a total life of 23 years or 30 years.

6.) Repeal the seven year expenditure rule and allow for expenditures throughout the life of the TIF. Allowing local municipalities the ability to invest in the TIF districts over the districts life permits the local community the flexibility to address economic development opportunities. The community and Wisconsin wins if a community can make the necessary TIF investments in year 15 that result in new jobs and tax base to the area, period. Under current law communities forfeit that opportunity, especially if a tight timeline is proposed. Instead of creating another district the community can make the investment in an existing district.

Compromise repeals the seven year expenditure rule and allows TIF eligible expenditures to occur up to two years prior to the original closure date of the TIF (Year 25 in redevelopment TIFs and Year 18 in all other TIFs).

7.) Allow taxing jurisdictions to tax up to 25% of the value increment. As part and parcel of the time extensions and Donor TIF proposals, this allows the technical college, county, or school district the option of collecting a portion of the tax increment immediately. Thus reaping a portion of the development benefits in year one instead of waiting until year 23 or 30. A common complaint used against TIF is that the wait for the benefit is too long, this proposal attempts to address that concern all be it in a rather limited manner.

Compromise is to allow this opt in provision only for greenfield developments.

8.) Boundary Amendments allow for up to four boundary amendments throughout the life of a TIF. This proposal is a corollary to the expenditures throughout the life of the TIF. If a TIF can make expenditures up to and through years 23 and 30, it follows that the TIF boundaries must also be able to be amended. Current law allows for one boundary amendment in the first seven years which is the same time frame as the current expenditure rule. Therefore a change in the expenditure rule should correspond to a change in the boundary amendment rule.

Compromise includes the ability to subtract territory and allows the taxing entities to opt in on the 25% tax base at that time.

9.) Allow counties not within MSA's to create TIFs within towns, if all bordering cities and villages acquiesce. Many of Wisconsin's rural counties happen to be on the borders with Illinois, Iowa, Michigan and Minnesota and are at a distinct economic development disadvantage, because they are unable to TIF in the townships abutting the state line. The local communities lose and Wisconsin loses. This proposal addresses this economic development inequality, by allowing counties to create TIF districts, leveling the economic development playing field with competing states.

Compromise allows for cooperative boundary agreements in those areas outlined. The group will have the opportunity to address the town surrounded by towns situation through substitute amendment during the fall floor period.

10.) Substantial Compliance/Substantial Justice. Allow DOR to approve a new TIF even if there is some error as long as it does not affect substantial justice. This change will reduce and hopefully eliminate the number of annual legislative requests to approve TIF districts which made a minor error in the process.

No change.

11.) Allow the Joint Review Board to approve the resolution creating a TID at any time within the 30 days after receiving the resolution.

No change.

Other additions to the Joint Review Board process include. The establishment of a Joint Review Board, in a Union High School District would allow a member of the elementary school half the school district's vote. If the TIF project plan includes possible grants and loans to developers that language must be incorporated into the public hearing notice and a copy of any future development agreement must be provided to the taxing entities—development agreements would be a requirement. A majority vote of the Joint Review Board may request clarification by DOR on components of the TIF project plan prior to adoption.

Representative Lehman had some requirements that have also been included—both technical and substantive. They can be found in two broad categories TIF eligibility and DOR responsibility.

1.) ***TIF eligibility. Require that all affected taxing entities, including Lake Districts, Sanitary Districts, etc. are notified of the creation of TID by letter, failure to do so would not affect substantial compliance. Newly annexed lands must wait 3 years or there must be a cooperative boundary agreement in place or the municipality must pay 3 years of the towns base taxes (TIF eligible) before those areas are TIF eligible.***

2.) ***DOR Responsibility. Require that revenue update a manual on TIF programs. Require that DOR review and approve TIF plans and they are not allowed to approve a plan which exceeds the 12% assessed rule. Require local government provide a TIF closure document to DOR explaining how the TIF was "paid out." Permits Revenue to charge a $1000 TIF application fee, which would be an eligible project expense. THESE CHANGES WILL BE IN A SEPARATE BILL TO AVOID AN APPROPRIATION AND POTENTIAL FOR LINE ITEM VETO.***